IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

CWP NOs.572 Of 2000, 602 of 2000, 603 of 2000, 893 of 2000 &894 of 2000.

Date of decision: April 11, 2007.

1. CWP No.572 of 2000.

Union of India and others. ……. Petitioners.

Vs.

Het Ram and another. ……. Respondents.

2. CWP No.602 of 2000.

Union of India and others. ……. Petitioners.

Vs.

Dhanpat Nehratoo and others ……. Respondents.

3. CWP No.603 of 2000.

Union of India and others. ……. Petitioners.

Vs.

Mehar Chand and another. ……. Respondents.

4. CWP No.893 of 2000.

Union of India and others. ……. Petitioners.

Vs.

Roop Lal and another. ……. Respondents.

5. CWP No.894 of 2000.

Union of India and others. ……. Petitioners.

Vs.

Geeta Ram and another. ……. Respondents.

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The Hon'ble Mr.Justice Deepak Gupta, Judge.

The Hon'ble Mr.Justice Surinder Singh, Judge.

Whether approved for reporting? No.

For the petitioner: Mr. Sandeep Sharma, Asstt. Solicitor General of India.

For the respondents: Mr. P.P. Chauhan, Advocate.

Surinder Singh, J (oral).

The above titled petitions have been taken together for decision as a common question of law arises in all the petitions for our consideration.

Whether reporters of local Papers may be allowed to see the judgment? Yes.

The petitioners have sought a direction to the effect that the orders passed by the learned Central Administrative Tribunal dated 19.11.1999 in the aforesaid original applications were wrong and illegal, therefore deserves to be set-aside.

The facts in each of the petitions are almost similar. The respondents Hem Raj (since dead), Het Ram, Mehar chand, Roop Lal and Geeta Ram were appointed as Extra Departmental Delivery Agent (EDDA) by the petitioners herein. The necessary particulars of each of their petition are tabulated hereunder:-

Sl. No.	CWP No.	OA No.	Name of EDDA's	Date of appointment as EDDA	Date of sterilization	No. of children	Date of appointment as Postman/ Class-IV employee.
1.	572 of 2000	794 /HP /99	Het Ram (dead) through LRs	7.8.80	31.10.84 by the wife	2	28.10.91
2.	602 of 2000	796 /HP /99	Hem Raj (deceased) through LRs	20.3.78	22.12.87 by respondent	2	16.9.90
3.	603 of 2000	797 /HP /99	Mehar Chand	28.3.78	26.3.87 by wife	3	21.9.90
4.	893 of 2000	801 HP/ 99	Roop Lal	12.5.77	20.12.84 by respondent	2	31.7.89
5.	894 of 2000	336 /HP /99	Geeta Ram	20.3.78	12.9.83 by respondent	2	22.10.90

The EDDA'S aforesaid had made representations to the petitioners herein for grant of special increment on the ground that they and their respective spouses were within the age of reproductivity when one out of the spouses underwent an operation of sterilization. Their representations were rejected on the grounds that under the policy the special increment was only available to the regular employees and not admissible for sterilization operation to a casual labour with temporary status. Consequently, the EDDA'S aforesaid had filed the respective original applications before the learned Central Administrative Tribunal. The learned Tribunal after considering the case of the parties and upon hearing them, on the

basis of the judgment delivered by the Supreme Court in **Superintendent of Post Offices** v. **P.K. Rajamma**, **[1977 SCC (L&S) 374], State of Assam** v. **Shri Kanak Chandra Dutt, (1967) 1 SCR 679** and the judgment of the Central Administrative Tribunal in **S. Ramachandran** v. **Chief General Manager, Telecom, Trivendrum and others [(1991) 16 ATC 641]** and further in view of the fact that in similar situated person named Kali Dass was granted special increment on the same ground w.e.f. 5.8.1989, allowed their prayer, against which the petitioners herein have filed these petitions on the grounds that the respondents are not entitled for such an increment as they were **Extra Departmental Delivery Agents** (EDDA'S) and there was no relationship of master and servant inter se the parties and the findings of the learned Central Administrative Tribunal are incorrect. We have heard the learned counsel for the parties and have gone through the record. The question which arise for our determination is :-

> **"Whether the respondent-EDDA in each of the petition are the holder of a civil post ?**

If, this question is answered in affirmative, the impugned order passed by the learned Tribunal is bound to be upheld. In fact this question is no longer *res integra.*

The Apex Court in **Superintendent of Post Offices etc.etc.** vs. **P.K. Rajamma etc. etc**. **(1977) 3 SCR 678: [1977 (2) SLR 226 (SC)]** has dealt with the question whether an extra departmental agent holds a civil post and for his dismissal or removal the provision of Article 311(2) of the Constitution was applicable. The Apex Court laid down that an extra departmental agent held a civil post and his dismissal or removal would be invalid if there was infraction of provisions of Article 311(2) of the Constitution as it then stood. The Court observed that an extra departmental agent was not a casual worker but he held a post under the administrative control of the State and the relationship between the postal authorities and the extra departmental agent was that of a master and servant.

Thus, applying the law, as laid by the Apex Court, in our considered opinion, the Extra Departmental Delivery Agents are the holders of the civil post. We do not find any illegality in the impugned orders passed by the learned Central Administrative Tribunal. Therefore, all the petitions are dismissed. No order as to costs.

A copy of this judgment be placed in each of the petitions.

(Deepak Gupta)
Judge.

April 11 , 2007.
(Pds)

(Surinder Singh)
Judge.